

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MATTHEW R. RUTH,

Plaintiff,

v.

PATRICK GLEBE, and RAY GONZALES,

Defendants.

CASE NO. C14-1388 BHS

ORDER ADOPTING REPORT AND
RECOMMENDATION

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable David W. Christel, United States Magistrate Judge (Dkt. 25), and Plaintiff Matthew Ruth’s (“Ruth”) objections to the R&R (Dkt. 29).

On May 19, 2015, Judge Christel issued the R&R recommending that the Court grant Defendants’ motion to dismiss, grant Ruth leave to file an amended complaint, and deny Ruth’s motion for summary judgment. Dkt. 25. On August 5, 2015, Ruth filed objections. Dkt. 29. On August 13, 2015, Defendants responded. Dkt. 30. On August 19, 2015, Ruth replied. Dkt. 31.

The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

1 In this case, the Court agrees with Judge Christel that Ruth's complaint fails to state a
2 claim because it fails to provide sufficient factual allegations to support each element of each
3 claim. Ruth, who is pro se, appears to misunderstand the current procedural posture of this
4 matter. In granting Defendants' motion to dismiss, the Court is identifying the deficiencies in
5 Ruth's complaint and granting Ruth leave to amend his complaint to correct those identified
6 deficiencies. Ruth's objections and reply are filled with numerous facts that may or may not
7 correct these deficiencies. Regardless, Ruth is required to allege facts in his complaint in a
8 simple, straightforward manner that shows that he is entitled to relief. Ruth has not done so and
9 should be given an opportunity to do so.

10 With regard to Ruth's motion for summary judgment, Ruth fails to meet his burden that
11 he is entitled to relief as a matter of law and that no questions of fact exist.

12 Therefore, the Court having considered the R&R, Ruth's objections, and the remaining
13 record, does hereby find and order as follows:

- 14 (1) The R&R is **ADOPTED**;
- 15 (2) Defendants' motion to dismiss is **GRANTED**;
- 16 (3) Ruth is **GRANTED** leave to amend his complaint;
- 17 (4) Ruth's motion for summary judgment is **DENIED**; and
- 18 (5) This matter is re-referred for further proceedings, including setting a deadline for
19 Ruth to file an amended complaint.

20 Dated this 2nd day of September, 2015.

21 

22 BENJAMIN H. SETTLE
United States District Judge